

going to be testifying before the Judiciary Committee on March 14. I am putting it in the public view to solicit comments and to solicit responses and ideas as to the effectiveness or propriety or desirability of such legislation. I do so tentatively because it is a very complicated subject, and there have been relatively few modifications of the antitrust laws in the United States.

The basic antitrust law under which we operate is more than a century old. The Sherman Act, enacted in 1890, made it unlawful to enter into a contract, combination, or conspiracy in restraint of trade and prohibited monopolization. Then, 24 years later, we enacted the Clayton Act, which prohibits unlawful tying, corporate mergers and acquisitions that reduce competition and interlocking directorates, which lead principally to substantial restraint on trade. Those are the two principal statutes that mold the antitrust laws in the United States.

There have been some additions: in 1914, the Federal Trade Commission Act prohibiting unfair methods of competition affecting commerce; in 1936, the Robinson-Patman Act prohibiting sales that discriminate in the price or sale of goods to equally situated distributors where the effect of such sales is to reduce competition; in 1945, the McCarron-Ferguson Act applying antitrust laws to the insurance industry only "to the extent that such business is not regulated by State law;" and then the 1976 Hart-Scott-Rodino Act which amended the Clayton Act and required companies to give notice to the antitrust enforcement agencies prior to consummating a merger.

But in this long history, the principal acts have been the Clayton Act and the Sherman Act.

There has been from time to time other legislation touching the antitrust issues—the Soft Drink Interbrand Competition Act in 1980 permitting the owners of trademark soft drinks to grant exclusive territorial franchises to bottlers or distributors; the local government antitrust laws of 1984; the International Antitrust Enforcement Assistance Act of 1994; the Standards Development Organization Advancement Act of 2004 protecting organizations that develop industry standards from certain types of antitrust liability; and in 2004 the Antitrust Criminal Penalty Enhancement Reform Act.

There have been some modifications of the antitrust laws allowing the National Football League, for example, to have revenue sharing. From time to time, proposals have been made to limit the exemption that baseball enjoys from the antitrust laws as a result of decisions of the Supreme Court of the United States.

It is my concern that there ought to be some close analysis of the existing antitrust laws with what is happening in the marketplace. The outline of proposed legislation which I have denominated the "Petroleum Industry Anti-

trust Act of 2006" is an outline for analysis and for further thought. Again I will say that I am not introducing it as a bill today, but I will use it as a basis for discussion and questioning in the Judiciary Committee hearing that will be held on March 14.

This bill would eliminate the judge-made doctrines that prevent OPEC members from being sued for violation of the antitrust laws by conspiring to fix the price of crude oil. Section 1 of the bill amends the Sherman Act prohibiting oil and gas companies from diverting, exporting, or refusing to sell existing supplies of crude oil, refined products, or natural gas, with the primary intent of raising prices or creating a shortage in the market where the existing supplies are located or intended to be shipped.

Section 2 amends the Clayton Act prohibiting the acquisition of an oil or gas company or, any assets of such a company, when the acquisition would lessen competition. Current law allows the antitrust agencies to challenge any acquisition that may "substantially" lessen competition. This change would significantly increase the level of scrutiny received by any large merger between competitors in the oil and gas industry.

Section 3 requires the Government Accountability Office to evaluate whether divestitures required by the Federal Trade Commission ("FTC") or the Department of Department ("DOJ") with regard to oil and gas industry mergers have been effective in restoring competition. Once the study is completed, the FTC and the DOJ must consider whether any additional steps are necessary to restore competition, including further divestiture or the unraveling of some mergers.

Section 4 requires that the FTC and the DOJ establish a joint federal-state task force to examine information sharing and other anticompetitive results of recent consolidation in the oil and gas industry.

These provisions might well be extended in a final legislative proposal to go beyond oil and gas, but that is the thrust of what we are considering as we prepare for the Judiciary Committee hearing on March 14.

Again, I wish to emphasize that this is an outline of proposed modifications to the antitrust laws. I approach it with an eye toward the spirit of the Sherman Act and the Clayton Act, both of which have existed for so long, but also with a sense that what is happening in the marketplace today requires some further analysis by the Judiciary Committee.

We are finding that the prices of heating oil are extremely high, the price of natural gas is extremely high, the price of gasoline at the pump is extremely high, and the American consumers and consumers beyond America deserve some attention, they deserve to have this situation analyzed and considered.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THOMAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### ETHICS REFORM

Mr. THOMAS. Mr. President, I will express some anxiety about the fact we are not moving forward with legislation we need to be considering. Interestingly enough, I came from a briefing upstairs by the Secretary of Defense and the general from Central Command. It reminds Members of the things out there that we need to deal with.

Members go home to their States and people talk about issues that are of interest to them—whether it is the economy, energy, budgets—and yet we find ourselves going day after day without being able to move forward to the topics that are of prime importance. Certainly, we should have the opportunity to talk about whatever people want to talk about. We should have the opportunity to discuss and debate issues, to come to conclusions on issues, but we need to come to a conclusion.

It is embarrassing to see what has happened today. We had an opportunity to move toward to resolve one of the issues we had before the Senate, the lobbying issue, which needs to be resolved. I don't happen to think it is the biggest issue in the world, but we were in the process of finding ways to get to it in a bipartisan effort that collapsed because of one effort to derail what we are doing.

I think we need to take a long look at ourselves. It would be good if we had a little time to lay out on a list those issues that are most important, the top-quality issues, and then really focus on those issues.

I think to bring up something here that is totally unrelated to the lobbying reform issue, which simply caused us to be stalled on an issue that is being resolved—whether it is the 45-day period, whether it is the agreement that has come forth since—there was no real reason to bring this up on the floor at this time except to obstruct moving forward.

I guess I am becoming sort of upset with the fact that we are not able to move forward. I think some of these things are pretty partisan issues, simply wanting to get this group out because there is something going on in the House to resolve that hard issue, and they do not want to be left behind. It is political. I am sorry, but that really is not what it is about to be on the Senate floor.

So I will not take any more time, except, I guess, to express my frustration when we do have important issues to deal with. There are a lot of issues out there that are so important. We are

talking about energy and how we get some issues resolved so we can deal, in the long term, with energy, which is a big issue for us not only because it is energy but because it affects everyone every day. It affects jobs. It affects the economy.

I think one of the issues we need to be doing and continuously working on is health care so it is available for everyone and is affordable. We can make some changes there, there is no question.

We need to make sure we are doing all we can in taking a long look at what is happening in the Middle East, and that we can get our job completed in Iraq, and make sure we do not end up being singularly involved with Iran. Those are some of the issues.

I am, of course, very impressed with the way this system works and very impressed with the way this Senate works, but I do find sometimes that I think we get it all jammed up for reasons that are not really part of what we are here designated to do.

So I just wanted to share my frustration with that and hope we can work with the leaders on both sides of the aisle to find some ways for us to address those issues that are before us for the American people, to do the job we are assigned to do and have the responsibility to do, and to move forward.

It is frustrating to be here but once a day, for example, when there are lots of issues out there. Let's decide them, let's vote on them, let's get on with it, instead of—look at this place, empty, empty most of the day because we have an obstruction in the system.

So, Mr. President, I hope we can find some ways to remedy the situation. And I certainly would like to be a part of finding those remedies.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CHAFEE). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LUGAR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### EXTENSION OF NORMAL TRADE RELATIONS WITH UKRAINE

Mr. LUGAR. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 370, H.R. 1053.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 1053) to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Ukraine.

There being no objection, the Senate proceeded to consider the bill.

Mr. LUGAR. Mr. President, I ask unanimous consent that the bill be read the third time, passed, the motion

to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

I further ask consent that S. 632, the Senate companion measure, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 1053) was read the third time and passed.

Mr. LUGAR. Mr. President, last November, the Senate passed a bill I introduced, S. 632, authorizing the extension of permanent normal trade relations with Ukraine. During the post-Cold War era, Ukraine has continued to be subject to the provisions of the Jackson-Vanik amendment to the Trade Act of 1974, which sanctions nations for failure to comply with freedom of emigration requirements. My bill repeals permanently the application of Jackson-Vanik to Ukraine.

Yesterday, the House of Representatives passed H.R. 1053, the House companion to my bill. I am extremely pleased that the Senate has passed this legislation today.

Since the end of the Cold War, Ukraine has demonstrated a commitment to meet freedom of emigration requirements, and to abide by free market principles and good governance. Improving trade will strengthen the growing relationship between our two nations. The United States will continue its strong support of Ukraine and its commitment to democracy and free markets.

I encourage President Yushchenko to continue his no-tolerance policy for antisemitism in Ukraine. I look forward to President Bush signing this bill into law as a further signal of United States support for democracy and free enterprise in Ukraine. This is especially important before the parliamentary elections in Ukraine on March 26.

Extraordinary events have occurred in Ukraine. A free press has revolted against intimidation and reasserted itself. An emerging middle class has found its political footing. A new generation has embraced democracy and openness. A society has rebelled against the illegal activities of the previous government. It is in our interest to recognize and to protect these advances in Ukraine.

The United States has a long record of cooperation with Ukraine through the Nunn-Lugar Cooperative Threat Reduction Act. Ukraine inherited the third largest nuclear arsenal in the world with the fall of the Soviet Union.

Through the Nunn-Lugar program, the United States has assisted Ukraine in eliminating this deadly arsenal and joining the Nonproliferation Treaty as a nonnuclear state. The United States can and should do more to eliminate conventional weapons stockpiles and assist other nations in detecting and interdicting weapons of mass destruction. These functions are underfunded, fragmented, and in need of high-level support.

This was pointed out to me during a visit Senator BARACK OBAMA and I enjoyed in Ukraine in early September of last year.

The Government's current response to threats from vulnerable conventional weapons stockpiles is dispersed between several programs at the Department of State. We believe the planning, coordination, and implementation of this function should be consolidated into one office at the State Department with a budget that is commensurate with the threat posed by these weapons.

We look forward to continuing to address these issues and making progress on all fronts in Ukraine. The permanent waiver of Jackson-Vanik and the establishment of permanent normal relations will be the foundation on which a burgeoning partnership between our nations can further grow and prosper.

Mr. President, I am pleased to mention that on this auspicious day of our relations with Ukraine, the Foreign Minister of Ukraine is in Washington. We have had opportunities to visit, to share views, and to assert, once again, the solidarity of our friendship.

Mr. OBAMA. Mr. President, I rise today to support H.R. 1053, legislation to extend permanent normal trade relations with Ukraine. This is the House companion to the bill, S. 632, that Senator LUGAR and I introduced and shepherded through the Senate last year.

Senator LUGAR just forcefully outlined the issues in only the way that the chairman of the Foreign Relations Committee can. I agree with what he said and cannot say it any better. So, I will be brief.

As the chairman mentioned, this bill comes at a critical time for Ukraine—on the heels of dramatic presidential elections and shortly before important elections in the Rada. This legislation grew out of our trip to Ukraine last August, as we saw firsthand the key role that the United States must play in consolidating prodemocracy, pro-free market reforms. I believe it is critical that we continue to send a clear message to the Ukrainian people that there are tangible benefits to continuing down this path. This bipartisan legislation does just that.

It is my honor to be the lead cosponsor of the Senate companion bill and I look forward to this legislation enhancing the U.S.-Ukraine relationship. I look forward to the President signing this bill into law.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.